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United States General Accounting Office
Washington, DC 20548

Comptroller General
of the United States

Decision

Matter of: Si-Nor, Inc.

File: B-288990

Date: December 17, 2001

Sam Gdanski, Esq., for the protester.
Julia C. Novotny, Esq., Chad E. Miller, Esq., and Richard Welsh, Esq., Naval Facilities Engineering Command, for the agency.
Linda C. Glass, Esq., and Michael R. Golden, Esq., Office of the General Counsel, GAO, participated in the preparation of the decision.

DIGEST

Agency reasonably denied firm's request for upward correction of bid where the protester's claim of mistake was based on workpapers that the agency reasonably found not to be in good order and that did not establish the intended bid.

DECISION

Si-Nor, Inc. protests the denial of its request for upward correction of its low bid under invitation for bids (IFB) No. N62477-00-B-1052, issued by the Naval Facilities Engineering Command for refuse collection, recycling and disposal services at the Marine Corps Base in Quantico, Virginia.

We deny the protest.

Three bids were received in response to the IFB by the July 18, 2001, bid opening date. Si-Nor submitted the low bid of \$726,522; Delmar Systems, Inc. submitted the next low bid of \$969,673.58. The government estimate was \$883,466.70. Agency Report (AR) encl. 2, Abstract of Offers.

As relevant here, Si-Nor bid the work as follows:

Line Item No.	Annual Quantity	Unit Price	Total Price
0001AA	62,140	\$2.25	\$139,815
0001AB	1,144	\$12.50	\$14,300
0001AC	5,200	\$3.75	\$19,500
0001AE	28,134	\$12.50	\$351,675
0001AJ	158	\$350	\$54,600
0001AL	130	\$350	\$45,500

AR encl. 3, Si-Nor's Bid.

On September 3, the agency requested Si-Nor to confirm its bid. On September 4, Si-Nor's Vice President submitted a letter to the agency requesting a bid correction because he discovered "that my clerical staff made some errors." AR encl. 4, Si-Nor Request for Correction. Specifically, the Vice President stated that for line item 0001AB, his intended unit price of \$17.50, was incorrectly read and typed as \$12.50. According to the Vice President, the clerical staff crossed out on the worksheet his original extension in the amount of \$20,020, which was correct, based on a unit price of \$17.50, and entered \$14,300. As shown above, the \$14,300 extension price was then included in the bid. The Vice President further stated that the clerical staff made the same mistake on line item 0001AE and read and typed his \$17.50 as \$12.50 and changed the extension price to \$351,675 in place of his intended extension price of \$492,345. Id. The Vice President also stated that certain service charges were not included for two other line items. Specifically, for line item 0001AJ he wrote on his worksheet \$350 with +40 in small print next to the unit price intending the clerical staff to add these two figures together prior to computing the extended amount. This type of error also occurred with respect to line item 0001AL where \$35 was not added to the unit price of \$350. As a result, Si-Nor asserted that the unit and extension prices were not correct for these two items. Based on these four errors, the protester requested a total upward correction from \$726,522 to \$883,702. The protester enclosed with its letter his original worksheets; a "Contract Cost Proposal" and revised bid schedule showing the alleged intended bid; and several subcontractor quotes. None of these documents were dated. The firm did not submit any sworn affidavits from the Vice President or the "clerical staff" employees who allegedly participated in the preparation of the worksheets or bid.

The first of Si-Nor's two relevant worksheets is reproduced on the next page:

And use my unit prices and multiply with quantity to get the correct extensions.
 Add up totals of 0001 and 0002.
 Use same unit price for all other years.

AMENDMENT 0002
 PAGE 5

NAME OF OFFEROR:

N62477-00-1-82

SCHEDULE OF FIRM FIXED PRICE WORK

BID SCHEDULE

LINE
 ITEM

NO. DESCRIPTION OF WORK ANNUAL QUANTITY UNIT UNIT PRICE TOTAL AMOUNT

0001 FIRM FIXED PRICE WORK

Price to perform work in accordance with all the items of this contract. The contract price is the sum of Contract Subline Items 0001AA through 0001AL.

COLLECTION & DISPOSAL OF
 RESIDENTIAL SOLID WASTE -
 90 GALLON CONTAINERS
 (CFC)

0001AA 62,140 EA \$ 2.25 \$ 139,815

COLLECTION & DISPOSAL OF
 RESIDENTIAL SOLID WASTE -
 SLANT 8-CY CONTAINERS
 (CFC)

0001AB 1,144 EA \$ 17.50 \$ 20,020

COLLECTION & DISPOSAL OF
 RESIDENTIAL SOLID WASTE -
 BULKY ITEMS

0001AC 5,200 CY \$ 3.75 \$ 19,500

COLLECTION OF 12-GALLON
 RECYCLABLE WASTE
 CONTAINERS - RESIDENTIAL
 (GFC)

0001AD 73,060 EA \$.55 \$ 40,183

COLLECTION & DISPOSAL OF
 COMMERCIAL SOLID WASTE -
 SQUARE 8-CY CONTAINERS
 (CFC)

0001AE 28,134 EA \$ 12.50 \$ 351,675

COLLECTION & DISPOSAL OF
 COMMERCIAL SOLID WASTE -
 3-CY CONTAINERS (CFC)

0001AF 3,744 EA \$ 8.50 \$ 31,824

STEAM CLEANING OF 8-CY
 CONTAINERS

0001AG 781 EA \$ 25 \$ 19,525

STEAM CLEANING OF 3-CY
 CONTAINERS

0001AH 52 EA \$ 10 \$ 520

COLLECTION AND DISPOSAL
 OF 40-CY COMPACTION
 CONTAINERS

0001AJ 156 EA \$ 350 \$ 54,600

STEAM CLEANING OF 40-CY
 COMPACTION CONTAINERS

0001AK 21 EA \$ 20 \$ 420

ABBREVIATIONS: CFC - Contractor Furnished Containers; CY - Cubic Yard;
 EA - Each; GFC - Government Furnished Containers

$$4 \times 174 \times 19.44 = 13530.24$$

$$6 \times 174 \times 10.52 = 10972.98$$

$$1 \times 3500 = 3500$$

$$12.52 + 1.92 = 14.44$$

$$8.60 + 1.92 = 10.52$$

(see how wage rates)

$$237817.2$$

$$6 \times 2800 = 16800$$

$$54612.22$$

After reviewing Si-Nor's submission, the agency concluded that there was insufficient evidence to establish the amount of Si-Nor's intended bid. By letter

dated September 22, the agency informed Si-Nor that the firm would not be permitted to correct its bid. The agency informed Si-Nor that it could be considered for award based on the prices originally submitted or that it could withdraw its bid. On September 25, Si-Nor filed this protest with our Office.

An agency may permit correction of a bid where clear and convincing evidence establishes both the existence of a mistake and the bid actually intended, so long as the correction would not result in displacing one or more lower bids. Federal Acquisition Regulation (FAR) § 14.407-3(a); Holmes Mech., Inc., B-281417, Jan. 13, 1999, 99-1 CPD ¶ 6 at 2. A request to correct a bid must be supported by statements and shall include all pertinent evidence, including original worksheets and other data used to prepare the bid, and any other evidence that establishes the existence of the error, the manner in which it occurred, and the bid actually intended. FAR § 14.407-3(g)(2). Workpapers may constitute part of that clear and convincing evidence if they are in good order and indicate the intended price. Pueblo Enters., Inc., B-278279, Jan. 14, 1998, 98-1 CPD ¶ 15 at 4. As a general matter, we view agencies' reluctance to find that evidence meets the high standard required for correction as protective of the integrity of the sealed-bid process. In any case, whether evidence meets the clear and convincing standard is a question of fact and we will not question an agency's decision based on this evidence unless it lacks a reasonable basis. J. Schouten Constr., Inc., B-256710, June 6, 1994, 94-1 CPD ¶ 353 at 3.

We have reviewed the report, as well as the information submitted by Si-Nor, and we conclude that the agency reasonably found that the information submitted here was inadequate to support correction. See Asbestos Control Mgmt., Inc., B-279521, June 23, 1998, 98-1 CPD 169 at 5-6.

As noted above, the workpapers and other supporting documents provided by Si-Nor to the Navy to support its mistake claim are not dated, and there was nothing before the Navy to establish when and how the workpapers were prepared. Moreover, the worksheets contain too many ambiguities to constitute clear and convincing evidence supporting correction.

For example, a note on the worksheet states, "Ana, use my unit price and multiply with quantity to get the correct extensions." However, as the Navy points out, it appears that the Vice President had already calculated the extensions based on the unit prices, and it is unclear why the Vice President directed "Ana" to calculate the extensions, if the extensions had already been calculated. As a more general matter, with all of the crossings-out and unclear handwriting, it is impossible to determine from the worksheet the intended bid prices for the line items at issue in the bid correction request. For example, for line item 0001AB, the worksheet suggests three possible intended unit prices--\$11.50, \$12.50, or \$17.50, and resultant extension prices. Other than the protester's post-bid-opening explanations, it is not obvious which of those figures was the intended price.

In his letter to the agency, the Vice President maintained that, for this line item and line item 0001AE, the clerical staff misread the Vice President's handwritten unit price as \$12.50, instead of the \$17.50 that was intended. These mistakes in the unit prices allegedly resulted from handwritten sevens that look like twos with a line slashed through them. However, while the clerical staff allegedly incorrectly read the sevens as twos on line items 0001AB and 0001AE, no mistake was made with respect to line item 0001AC's unit price of \$3.75, even though, as reproduced above, this seven looked identical to the seven which was allegedly mistaken as a two on the bid for line items 0001AB and 0001AE. There simply is no explanation as to how or why the alleged mistakes in reading the figures were made under certain circumstances and not others. The post-bid-opening explanation for the "+40" notation on line item 0001AJ and the "+35" notation on line item 0001AL is equally problematic. In our view, the Navy, faced with this confused picture, reasonably concluded that Si-Nor had not provided clear and convincing evidence of the intended prices.¹

The protest is denied.

Anthony H. Gamboa
General Counsel

¹ After filing its protest with our Office, Si-Nor filed declarations from the Vice President and from the secretary of Si-Nor who typed the bid. We are not persuaded that these submissions meaningfully explain the mistake in bid. In any event, the protester's submission of these declarations to our Office is irrelevant to the question before us, which is whether the agency's denial of the request for correction had a reasonable basis in the record before the agency at the time. Moreover, such tardy submission of statements supporting key contentions, which should have been part of the initial explanation to the agency, raises credibility concerns. See Pueblo Enters., Inc., supra, at 5 n.2.